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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/050,249

01/16/2002

Horst Greiner

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10/04/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

LEE, Y MY QUACH

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/050,249	GREINER, HORST	
	Examiner	Art Unit	
	Lee Y Quach	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed July 15, 2005 have been fully considered and are persuasive. Because a proper terminal disclaimer has not been filed at the present time, the provisional obvious type double patenting rejection of the claims has not been overcome and remains as followed.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 to 3, 5 and 6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 3, 5 and 6 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 to 3, 5 and 6 of copending application '260 disclose the invention substantially as claimed with the exception of having the light sources of different colors and that the light sources comprised of a plurality of red, green and blue light emitting diodes which are distributed such that no light sources of the same color lie in mutually adjoining cavities.

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Kawano et al. teach a plurality of light emitting diodes comprised of a plurality of red, green and blue diodes (column 12, lines 32 to 34) which are distributed such that no light sources of the same color lie in mutually adjoining cavities (figures 14 to 17, 19, 20 ...).

It would have been obvious to one skilled in the art to provide the light sources of claims 1 to 3, 5 and 6 of copending application '260 with the light sources comprised of red, green and blue diodes which are distributed such that no light sources of the same color lie mutually adjoining cavities, as shown by Kawano et al., for providing a desired color at a uniform brightness throughout the area of the light emission surface.

4. Claims 1, 3, 7 and 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 8 of copending application '260 discloses the invention substantially as claimed with the exception of having the light source of different colors.

Kawano et al. teach a plurality of light emitting diodes comprised of red, green and blue light emitting diodes (column 12, lines 32 to 34).

It would have been obvious to one skilled in the art to provide the light sources of claim 8 of copending application '260 with the light sources comprised of red, green, and blue light emitting diodes, as shown by Kawano et al., for providing a desired color at a uniform brightness throughout the area of the light emission surface.

5. Claims 1 and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 9 of copending application '260 discloses the invention substantially as claimed with the exception of having the light sources of different colors.

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Kawano et al. teach a plurality of light emitting diodes comprised of a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34).

It would have been obvious to one skilled in the art to provide the light sources of claim 9 of copending application '260 with the light sources comprised of red, green and blue light emitting diodes, as shown by Kawano et al., for providing a desired color at a uniform brightness throughout the area of the light emission surface.

6. Claims 1, 10, 11 and 12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 11 and 12 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 10, 11 and 12 of copending application '260 disclose the invention substantially as claimed with the exception of having the light sources of different colors.

Kawano et al. teach a plurality of light emitting diodes comprised of a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34).

It would have been obvious to one skilled in the art to provide the light sources of claims 10, 11 and 12 of copending application '260 with the light sources comprised of red, green and blue light emitting diodes, as shown by Kawano et al., for providing a desired color at a uniform brightness throughout the area of the light emission surface.

7. Claims 13 to 17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 16 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 16 of copending application '260 discloses the invention substantially as claimed with the exception of having the light sources of different colors and the optical waveguide plate disposed within the housing.

Kawano et al. teach an optical waveguide plate (11) disposed within a housing (16a) and a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34) which are

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distributed such that no light sources of the same color lie in mutually adjoining cavities (figures 14 to 17, 19, 20 ...).

It would have been obvious to one skilled in the art to disposed the optical waveguide plate of claim 16 of copending application '260 within a housing and the light sources of claim 16 of copending application '260 comprised of red, green and blue light emitting diodes which are distributed such that no light sources of the same color lie in mutually adjoining cavities, as shown by Kawano et al., for protecting the optical waveguide plate while distributing a desired color at a uniform brightness throughout the area of the light emission surface.

8. Claims 13, 15, 16 and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13 to 15 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 13 to 15 of copending application '260 discloses the invention substantially as claimed with the exception of having the light sources of different colors and the optical waveguide plate disposed within the housing with the second reflecting layer provided on inside walls of the housing.

Kawano et al. teach an optical waveguide plate (11) disposed within a housing (16a) and a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34) with a reflecting layer (17a, 17b) provided on inside walls of the housing.

It would have been obvious to one skilled in the art to disposed the optical waveguide plate of claims 13 to 15 of copending application '260 within a housing with the second reflecting layer provided on inside walls of the housing and the light sources of claims 13 to 15 of copending application '260 comprised of red, green and blue light emitting diodes, as shown by Kawano et al., for not only protecting the optical waveguide plate while preventing light leakage but also for distributing a desired color at a uniform brightness throughout the area of the light emission surface.

9. Claims 13, 15 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 19 of copending

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Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 19 of copending application '260 disclose the invention substantially as claimed with the exception of having a plurality of light sources of different colors with the optical waveguide plate disposed within the housing.

Kawano et al. teach an optical waveguide plate (11) disposed within a housing (16a) and a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34).

It would have been obvious to one skilled in the art to dispose the optical waveguide plate of claim 19 of copending application '260 within a housing and the light source of claim 19 of copending application '260 comprised of red, green and blue light emitting diodes, as shown by Kawano et al., for protecting the optical waveguide plate while distributing a desired color at a uniform brightness throughout the area of the light emission surface.

10. Claims 13 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 18 of copending application '260 disclose the invention substantially as claimed with the exception of having a plurality of light sources of different colors with the optical waveguide plate disposed within the housing.

Kawano et al. teach an optical waveguide plate (11) disposed within a housing (16a) and a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34).

It would have been obvious to one skilled in the art to dispose the optical waveguide plate of claim 18 of copending application '260 within a housing and the light source of claim 18 of copending application '260 comprised of red, green and blue light emitting diodes, as shown by Kawano et al., for protecting the optical waveguide plate while distributing a desired color at a uniform brightness throughout the area of the light emission surface.

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11. Claims 1 and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/050,260 in view of Kawano et al. (prior art previously cited) and Kamada et al. (EP 0921568, prior art cited by applicant). This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 of copending application '260 disclose the invention substantially as claimed with the exception of having a plurality of light sources of different colors and a plurality of light extraction elements disposed directly on the light emission surface.

Kawano et al. teach a plurality of red, green and blue light emitting diodes (column 12, lines 32 to 34).

Kamada et al. teach a plurality of light extraction elements (27a, figure 5) disposed directly on the light emission surface.

It would have been obvious to one skilled in the art to provide the light sources of claim 1 of copending application '260 with the light sources comprised of red, green and blue diodes, as shown by Kawano et al., for distributing a desired color at a uniform brightness throughout the area of the light emission surface and to dispose the optical waveguide plate of claim 1 of copending application '260 with a plurality of extraction elements, as shown by Kamada et al., for controlling the light distribution.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 571-272-2373. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding

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should be directed to the Customer Service whose telephone number is 571-272-2815.

Y. Q.
September 29, 2005



Y Quach Lee
Patent Examiner
Art Unit 2875